

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ CHICAS, ALONSO  
VILLATORO, MISAEL ALEXANDER MARTINEZ  
CASTRO, ANGEL MARTINEZ, EDWIN ULLOA  
MOREIRA and MATEO UMAÑA individually and on  
behalf of all others similarly situated,

Plaintiffs,

-against-

KELCO CONSTRUCTION, INC., KELCO  
LANDSCAPING, INC., E.L.M. GENERAL  
CONSTRUCTION CORP. D/B/A KELLY'S CREW,  
JOHN KELLY and JOSEPH PROVENZANO,

Defendants.

Case No. 1:21-CV-09014  
(PAE)(SDA)

**DECLARATION OF NOEL NARVAEZ IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR  
CONDITIONAL CERTIFICATION PURSUANT TO 29 U.S.C. § 216(b)**

I, Noel Narvaez, pursuant to 28 U.S. C. § 1746, declare as follows:

1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification pursuant to 29 U.S.C. § 216(b). I am personally familiar with the facts set forth below and submit this declaration based on my personal knowledge.

2. I am a resident of Patchogue, New York.

3. I am a union member of Local 1010.

4. I currently work for Kelco Construction as a jobsite foreman. I was a laborer until 2019 when I became a foreman. I have been working for Kelco Construction since approximately the summer of 2016.

5. My duties as a jobsite foreman are providing instructions and directions to employees on the jobsite, and perform some supervising duties.

6. In the morning, I pick up the company vehicle at 25 Newton Place, Hauppauge, New York ("Hauppauge facility") at approximately 4:45 a.m. I meet another coworker at the Hauppauge facility and drive him to the jobsites with me.

7. Aside from this specific employee, when I drove a larger truck, I sometimes pick up three (3) to four (4) other employees at the park-and-ride locations.

8. It takes me approximately forty (40) minutes to one (1) hour to drive the company vehicle the Hauppauge facility. It takes me approximately one and one-half (1 ½) to two (2) hours to drive the company vehicle back to the Hauppauge facility from the jobsites in New York City each workday.

9. To compensate me for this time that I spent driving, and as extra compensation for doing so, ELM paid me three (3) hours of drive time at a rate of \$20.00 per hour. There were instances when it took less than three (3) hours round trip between New York City jobsites and the Hauppauge facility. We were paid the same rate for the same amount of hours regardless.

10. On a normal basis, I see approximately four (4) or five (5) employees picking up company vehicles, or trucks, at the Hauppauge facility in the morning around the same time that I did.

11. Kelco Construction paid me approximately \$48.00 per hour.

12. I regularly worked for Kelco Construction approximately five (5) days per week, eight (8) hours per day.

13. Depending on the job, I work overtime hours on Saturday and am paid an overtime rate.

14. My primary language is English. I fully understand the contents of this declaration in my primary language.

15. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and make any corrections and additions of any kind.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: January 25, 2023

  
\_\_\_\_\_  
Noel Narvaez